



[Docket No. FR-6331-N-02B]

Extension of Public Interest, General Applicability Waiver of Build America, Buy America Provisions as Applied to Tribal Recipients of HUD Federal Financial Assistance: Extension of Public Comment Period

AGENCY: Office of the Secretary, U.S. Department of Housing and Urban Development (HUD).

ACTION: Notice; extension of public comment period.

SUMMARY: On April 7, 2023, HUD posted on its website for public comment an extension to its previously issued public interest, general applicability waiver for the Buy America Domestic Content Procurement Preference (“Buy America Preference,” or “BAP”) as applied to Federal Financial Assistance (“FFA”) provided to Tribes, Tribally Designated Housing Entities (“TDHE”s), and other Tribal Entities (hereinafter collectively “Tribal Recipients”). Specifically, HUD’s notice proposed that the waiver continue for an additional one-year period. The notice also established an April 24, 2023, deadline for public comment. The notice was also published in the Federal Register on April 12, 2023. Through today’s notice, HUD announces that it is extending the public comment period on its “Extension of Public Interest, General Applicability Waiver of Build America, Buy America Provisions as Applied to Tribal Recipients of HUD Federal Financial Assistance” to May 8, 2023.

DATES: Comment Due Date: The comment due date of April 24, 2023, provided by HUD’s posting its “Extension of Public Interest, General Applicability Waiver of Build America, Buy America Provisions as Applied to Tribal Recipients of HUD Federal Financial Assistance” is extended to May 8, 2023.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, S.W., Room 10276, Washington, D.C. 20410-0500.

Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, S.W., Room 10276, Washington, D.C. 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments: Facsimile (FAX) comments are not acceptable.

Public Inspection of Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-402-3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Faith Rogers, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10126, Washington, DC 20410-5000, at (202) 402-7082 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. HUD encourages submission of questions about this document be sent to BuildAmericaBuyAmerica@hud.gov.

SUPPLEMENTARY INFORMATION:

The Build America, Buy America Act (the Act) was enacted on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58). The Act establishes a domestic content procurement preference (the “Buy American Preference,” or “BAP”) that applies to HUD’s Federal financial assistance used for infrastructure projects.

On May 3, 2022 (87 FR 26221), HUD published a notice HUD seeking public comment on a general applicability, public interest waiver for one year of the BAP as applied to FFA provided to Tribal Recipients to provide the Department with time to engage in the Tribal consultation policy with respect to the applicability of BABA requirements to Tribal Recipients. HUD’s Tribal Government-to Government Consultation Policy¹ was adopted in compliance with Executive Order 13175, “Consultation with Indian Tribal Governments,” and outlines the internal procedures and principles HUD must follow when communicating and coordinating on HUD programs and activities that affect Native American Tribes.

¹ Available at: https://www.hud.gov/program_offices/public_indian_housing/ih/regs/govtogov_tcp. See also 81 FR 40893.

On April 7, 2023, HUD posted for comment on its website a proposed extension to May 3, 2022, of the public interest, general applicability waiver of the BAP as applied to FFA provided to Tribes Recipients. The notice proposed that the waiver continue for an additional period of one year and established an April 24, 2023, deadline for public comment. The notice was also published in the Federal Register on April 12, 2023 (88 FR 22064).

HUD has received feedback requesting additional time to review and provide comments on HUD's proposal to extend for an additional one-year period its waiver of the BAP as applied to FFA provided to Tribal Recipients. Therefore, HUD is extending the deadline for comments until May 8, 2023.

Aaron Santa Anna,
Associate General Counsel for Legislation and Regulations.

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